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AUG 03 2009

**OFFICE OF PETITIONS**

In re Application of :  
Christensen et al. : DECISION ON APPLICATION  
Application No. 10/529,375 :  
Filed: October 28, 2005 : FOR  
Atty. Dkt. No. 08059.0013 : PATENT TERM ADJUSTMENT  
: :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed on April 27, 2009. Applicants request that the initial determination of patent term adjustment be corrected from twenty-eight (28) days to three hundred sixty-five (365) days.

The application for patent term adjustment is GRANTED.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is THREE HUNDRED SIXTY-FIVE (365) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 9, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 28 days. The instant application for patent term adjustment was timely filed.<sup>1</sup> Applicants assert entitlement to additional patent term adjustment for office delay because the Office action mailed on January 25, 2007 was subsequently vacated, and a new Office action was mailed on December 28, 2007.

Specifically, a letter was mailed on April 12, 2007, stating that "the final rejection mailed on 1/25/07 is vacated. This

<sup>1</sup> PALM records indicate that the issue fee was paid on April 27, 2009.

action was incorrectly mailed to the applicant." On December 28, 2007, a new Office action was mailed.

Applicants state that the subject application is not subject to a terminal disclaimer.

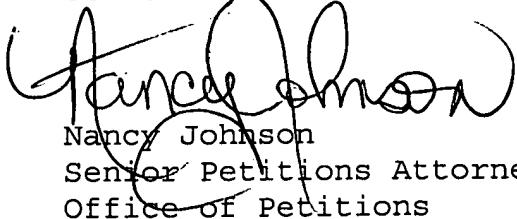
Upon review, applicants' assertion is correct. Since the Office action mailed on January 25, 2007, was vacated, and a new Office action was mailed on December 28, 2007, the period of adjustment under 35 U.S.C. § 154(b)(1)(A)(i) and 37 CFR 1.703(a)(1) is the period beginning the day after the date that is 14 months after the date the application fulfilled the requirements of 35 U.S.C. 371, December 29, 2006, and ending on the date of mailing of the Office action mailed on December 28, 2007, or 365 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is THREE HUNDRED SIXTY-FIVE (365) days (365 days of PTO delay, reduced by 0 days of Applicant delay).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries regarding this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Encl: Revised PALM Calculation

# PALM INTRANET

## PTA Calculations for Application: 10/529375

Application Filing Date:	10/28/2005	PTO Delay (PTO):	28
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	365
PTO Delay Adjustment:	337		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	07/31/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
68	07/31/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
67	07/31/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	28		
66	07/31/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	365		
59	02/09/2009	MAIL NOTICE OF ALLOWANCE			
58	02/04/2009	ISSUE REVISION COMPLETED			
57	02/04/2009	DOCUMENT VERIFICATION			
56	02/04/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	02/04/2009	NOTICE OF ALLOWABILITY			
54	12/22/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	12/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	01/09/2009	DATE FORWARDED TO EXAMINER			
51	12/22/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
50	01/09/2009	DATE FORWARDED TO EXAMINER			
49	12/22/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
48	01/09/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
47	12/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	12/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	12/22/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
44	09/22/2008	MAIL FINAL REJECTION (PTOL - 326)			

43	09/19/2008	FINAL REJECTION			
41	08/21/2008	DATE FORWARDED TO EXAMINER			
40	07/21/2008	RESPONSE AFTER NON-FINAL ACTION			
39	04/21/2008	MAIL NON-FINAL REJECTION			
38	04/17/2008	NON-FINAL REJECTION			
29	02/14/2008	DATE FORWARDED TO EXAMINER			
28	01/25/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
27	12/28/2007	MAIL RESTRICTION REQUIREMENT			
26	12/21/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
21	04/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
20	04/10/2007	SUBTRACT FAOM COUNT			
19	04/12/2007	MAIL NOTICE OF WITHDRAWN ACTION			
18	04/10/2007	LETTER WITHDRAWING / VACATING OFFICE ACTION			
17	01/25/2007	MAIL FINAL REJECTION (PTOL - 326)	28		-1
16	01/22/2007	FINAL REJECTION			
15	01/22/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	06/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	05/22/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	03/12/2006	CLEARED BY OIPE CSR			
11	03/12/2006	CLEARED BY OIPE CSR			
10	03/12/2006	CLEARED BY OIPE CSR			
9	03/12/2006	CLEARED BY OIPE CSR			
8	03/12/2006	CLEARED BY OIPE CSR			
7	10/28/2005	371 COMPLETION DATE			
6	02/10/2006	APPLICATION DISPATCHED FROM OIPE			
5	02/10/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	10/28/2005	ADDITIONAL APPLICATION FILING FEES			
3	10/28/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

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